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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,690	10/28/2003	Manfred Gilbert	21295.68 (H745US)	3928
29127	7590	10/17/2005	EXAMINER	
HOUSTON ELISEEVA 4 MILITIA DRIVE, SUITE 4 LEXINGTON, MA 02421			PRITCHETT, JOSHUA L	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,690

Applicant(s)

GILBERT, MANFRED

Examiner

Joshua L. Pritchett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to Amendment after non-final rejection filed August 22, 2005.

Claims 1, 6, 8, 13 and 20 have been amended as requested by applicant.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchiyama (US 4,123,170) in view of Garner (US 5,557,456).

Regarding claims 1, 3-5, 13, 15 and 18, Uchiyama teaches two image acquiring optical subsystems (26 and 27 as well as 29 and 30)) a bridge which connects the two microscope subsystems mechanically and optically to one another (Fig. 5), respective XY stages (21 and 20) movable in motorized fashion provided for each image-acquiring optical subsystem (Fig. 5) and a control unit for moving the XY stage in motorized fashion (col. 4 lines 50-53). Uchiyama teaches the subsystems are microscopes (col. 1 lines 59-60). Uchiyama lacks reference to moving the stages in the Z direction. Garner teaches the use of a stage movable in the X, Y and

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Z directions (Fig. 1). Garner teaches the displacement of the XYZ stage in the X direction, Y direction and Z direction, a motor (4-6) provided which receives the signals of the control unit and converts them into corresponding rotation (Fig. 1). Garner teaches the control and adjustment apparatus possesses an X actuation element (6), a Y actuation element (5) and a Z actuation element (4) for displacing the XYZ stage (Fig. 1). Garner teaches movement in the Z direction is for focusing (col. 1 line 41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Uchiyama reference include movement in the Z direction s taught by Garner for the purpose of focusing the light on the stages.

Regarding claims 14, 16 and 17, Uchiyama teaches the invention as claimed but lacks reference to the specifics of the control unit. Garner teaches the control unit is a control and adjustment apparatus that is associated with the subsystems and a first remote control device (9) is respectively connected to the first subsystem (7) and a second remote control device (11) is connected to the second subsystem (1; Fig. 1). Garner teaches the control and adjustment apparatus encompasses an on/off switch for synchronous displacement of the two XYZ stages which acts in such a way that when the on/off switch for synchronous displacement is switched on, both the XYZ stages are movable synchronously regardless of the actuation of the X, Y or Z actuation elements (col. 3 lines 50-58). Garner states that when one or more of the manual control knobs are moved the manual controls take over for the computer driven controls. Garner teaches the first remote control device and the second remote control device encompass a plurality of actuation elements; and the actuation elements of the first remote control device and the second remote control device are also synchronizable in pairs (Fig. 1; 14, 16, 18; col. 2 lines 6-11). It would have been obvious to one of ordinary skill in the art at the time the invention was

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made to have the Uchiyama invention include the control unit of Garner for the purpose of being able to accurately scan the light over the stage and focus the light with regards to the stage.

Regarding claims 19 and 20, Uchiyama teaches the invention as claimed but lacks reference to a computer. Garner teaches the XYZ stage synchronization switched on and off by way of a PC (col. 3 lines 50-58). Garner teaches the invention as claimed including the use of a comparison optical system associated with a computer (9) that supplies signal to the comparison optical system and receives image data or settings data from the comparison optical system. Garner lacks reference to a RS232 or USB connection. Both RS232 and USB connections are extremely well known means of connecting a computer to another electronic device. Official Notice is taken. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the Uchiyama invention include the computer of Garner and USB or RS232 cables as is known in the art for the purpose of efficiently and reliably relaying signals between the two devices.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uchiyama (US 4,123,170) in view of Garner (US 5,557,456) as applied to claim 1 further in view of Reichel (US 4,403,839).

Regarding claim 2, Uchiyama in combination with Garner teaches the invention as claimed but lacks reference to the use of macroscopes. Reichel teaches that macroscopes are well known replacements for microscopes (abstract). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the microscope of Garner be a macroscope as taught by Reichel for the purpose of viewing larger sized objects.

Claims 6-12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uchiyama (US 4,123,170) in view of Garner (US 5,557,456) and Reichel (US 4,403,839).

Regarding claims 6, 7 and 9, Uchiyama teaches two image acquiring optical subsystems (26 and 27 as well as 29 and 30)) a bridge which connects the two microscope subsystems mechanically and optically to one another (Fig. 5), respective XY stages (21 and 20) movable in motorized fashion provided for each image-acquiring optical subsystem (Fig. 5) and a control unit for moving the XY stage in motorized fashion (col. 4 lines 50-53). Uchiyama lacks reference to moving the stages in the Z direction and the use of a macroscope. Garner teaches the use of a stage movable in the X, Y and Z directions (Fig. 1). Garner teaches the displacement of the XYZ stage in the X direction, Y direction and Z direction, a motor (4-6) provided which receives the signals of the control unit and converts them into corresponding rotation (Fig. 1). Garner teaches the control and adjustment apparatus possesses an X actuation element (6), a Y actuation element (5) and a Z actuation element (4) for displacing the XYZ stage (Fig. 1). Garner teaches movement in the Z direction is for focusing (col. 1 line 41). Reichel teaches that macroscopes are well known replacements for microscopes (abstract). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the microscope of Garner be a macroscope as taught by Reichel for the purpose of viewing larger sized objects. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Uchiyama reference include movement in the Z direction s taught by Garner for the purpose of focusing the light on the stages.

Regarding claims 8, 10 and 11, Uchiyama teaches the invention as claimed but lacks reference to the specifics of the control unit. Garner teaches the control unit is a control and adjustment apparatus that is associated with the subsystems and a first remote control device (9) is respectively connected to the first subsystem (7) and a second remote control device (11) is connected to the second subsystem (1; Fig. 1). Garner teaches the control and adjustment apparatus encompasses an on/off switch for synchronous displacement of the two XYZ stages which acts in such a way that when the on/off switch for synchronous displacement is switched on, both the XYZ stages are movable synchronously regardless of the actuation of the X, Y or Z actuation elements (col. 3 lines 50-58). Garner states that when one or more of the manual control knobs are moved the manual controls take over for the computer driven controls. Garner teaches the first remote control device and the second remote control device encompass a plurality of actuation elements; and the actuation elements of the first remote control device and the second remote control device are also synchronizable in pairs (Fig. 1; 14, 16, 18; col. 2 lines 6-11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Uchiyama invention include the control unit of Garner for the purpose of being able to accurately scan the light over the stage and focus the light with regards to the stage.

Regarding claim 12, Uchiyama teaches the invention as claimed but lacks reference to a computer. Garner teaches the invention as claimed including the use of a comparison optical system associated with a computer (9) that supplies signal to the comparison optical system and receives image data or settings data from the comparison optical system. Garner lacks reference to a RS232 or USB connection. Both RS232 and USB connections are extremely well known means of connecting a computer to another electronic device. Official Notice is taken. It would

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have been obvious to a person of ordinary skill in the art at the time the invention was made to have the Uchiyama invention include the computer of Garner and USB or RS232 cables as is known in the art for the purpose of efficiently and reliably relaying signals between the two devices.

Response to Arguments

Applicant's arguments, see Amendment, filed August 22, 2005, with respect to the rejection(s) of claim(s) claims 1-20 under Garner have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration of the newly amended claim limitations, a new ground(s) of rejection is made in view of Uchiyama in view of Garner.

Applicant's arguments, see Amendment, filed August 22, 2005, with respect to objection to claims 5, 8-11 and 20 have been fully considered and are persuasive. The objection of claims 5, 8-11 and 20 has been withdrawn.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

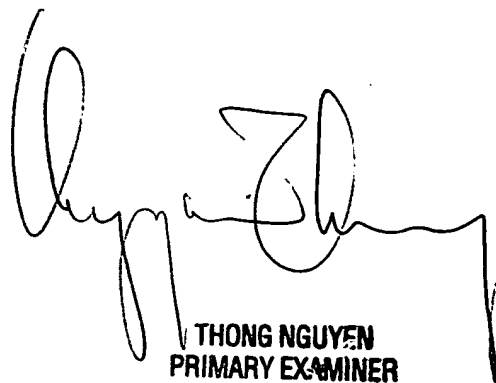
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